

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

AURELIO LOPEZ NUNEZ, #1306102	§	
VS.	§	CIVIL ACTION NO. 6:06cv375
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed for failure to prosecute and failure to obey an order. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit.

The Petitioner failed to obey an order to pay the filing fee of \$5. In his objections, he stated that he had, in fact, paid the filing fee. However, he paid the filing fee in another case, Civil Action Number 6:06cv338. He went on to say that he should have only one petition pending, as opposed to two. The records of the Court reveal that he filed the two petitions on two separate days. On the other hand, the two cases appear identical. The Petitioner did not explain why he filed a duplicate petition, and he should not be filing duplicate petitions. The present duplicate petition should be dismissed. The Petitioner may proceed only in Civil Action Number 6:06cv338. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DISMISSED** without prejudice.

It is further

ORDERED that all motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 9th day of November, 2006.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE